

CIVIL RIGHTS LAWS AND LEGISLATION IN WEST VIRGINIA

**WEST VIRGINIA ADVISORY COMMITTEE
TO THE UNITED STATES
COMMISSION ON CIVIL RIGHTS**

This summary report of the West Virginia Advisory Committee to the United States Commission on Civil Rights was prepared for the information and consideration of the Commission. Statements and viewpoints in the report should not be attributed to the Commission or to the Advisory Committee, but only to individual participants in the community forum where the information was gathered.

A SUMMARY REPORT

JANUARY 1990

THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights, first created by the Civil Rights Act of 1957 and reestablished by the United States Commission on Civil Rights Act of 1983, is an independent, bipartisan agency of the Federal Government. By the terms of the Act, as amended, the Commission is charged with the following duties pertaining to discrimination or denials of equal protection based on race, color, religion, sex, age, handicap, or national origin, or in the administration of justice: the investigation of discriminatory denials of the right to vote; the study of legal developments with respect to discrimination or denials of equal protection; the appraisal of the laws and policies of the United States with respect to discrimination or denials of equal protection; the maintenance of a national clearinghouse for information respecting discrimination or denials of equal protection; and the investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

THE STATE ADVISORY COMMITTEES

An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105(c) of the Civil Rights Act of 1957 and section 6(c) of the United State Commission on Civil Rights Act of 1983. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters in which the Commission shall request the assistance of the State Advisory Committee; and attend, as observers, any open hearing or conference which the Commission may hold within the State.

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LETTER OF TRANSMITTAL

West Virginia Advisory Committee
to the U.S. Commission on Civil Rights
August 1989

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Murray Friedman, Vice Chairman
Mary Frances Berry
Esther Gonzalez-Arroyo Buckley
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Melvin L. Jenkins, Acting Staff Director

Dear Commissioners:

The West Virginia Advisory Committee submits this summary report as part of its responsibility to advise the Commission about civil rights issues in the State of West Virginia.

The Advisory Committee held a community forum entitled "Civil Rights Laws and Legislation in West Virginia" on March 21, 1989 in Charleston. The date of March 21, 1989, is a historic one for West Virginia because Governor Gaston Caperton proclaimed it as "Civil Rights Day in West Virginia," the first in the State's history. The Advisory Committee naturally chose this date for its forum, which was a significant part of the day-long Civil Rights Day activities held in the State House. This summary report presents the highlights of the forum and the ensuing discussion.

The West Virginia Advisory Committee hopes this report will be of use and interest to the Commissioners as well as to State officials and citizens concerned about civil rights progress in West Virginia.

Respectfully,

ADAM R. KELLY, Chairman
West Virginia Advisory Committee

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Acknowledgments

The Committee is indebted to the chairman of it's planning subcommittee, Robert A. Brunner, and to the Staff of the Commission's Eastern Regional Division for planning the community forum and producing this summary report. For planning the Civil Rights Day activities, the Committee also gratefully acknowledges the cooperation and assistance rendered by Phyllis Carter, their Executive Director of the West Virginia Human Rights Commission, and David Ellis, staff member of the Office of Senator Lloyd G. Jackson, II, chairman of the Senate Committee on the Judiciary. A complete transcript of the forum is available in the Eastern Regional Division office of the Commission.

Ki-Taek Chun, Deputy Director. Eastern Regional Division, was director of this forum project, who was assisted by Juanique S. Caldwell, Edna Nicholson, and Linda R. Raufu. The project was under the overall supervision of John L. Binkley, Director, Eastern Regional Division.

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INTRODUCTION

By late 1988, it became apparent to members of the West Virginia Advisory Committee that strong leadership at the highest level of the State government was needed to create catalytic momentum for progress in the civil rights arena in West Virginia. Soon after the November 1988 election, the Advisory Committee approached governor-elect Gaston Caperton to suggest that he proclaim a Civil Rights Day in West Virginia. Its purpose would be to call the attention of West Virginians, and to reaffirm the commitment of the State government, to a wide-range of civil rights issues. He was very receptive of the idea. Upon his inauguration in January 1989, Governor Caperton appointed Ms. Phyllis Carter as Executive Director of the West Virginia Human Rights Commission and assigned her to serve as a liaison for Civil Rights Day-related activities.

In collaboration with Ms. Carter and the office of State Senator Lloyd G. Jackson, II., chairman of the Senate Committee on the Judiciary, the West Virginia Advisory Committee planned a proclamation ceremony and other activities. On March 21, 1989, which Governor Caperton proclaimed as "Civil Rights Day in West Virginia", three main activities were held: the proclamation ceremony, a Senate-House Joint Public Hearing, and a community forum by the Advisory Committee.

The first segment of the day's activities, between 9:00 a.m and 10:15 a.m., was an official Senate-House Joint Public Hearing on civil and human rights legislation. At this hearing, representatives of the National Organization for Women, the West Virginia chapter of the National Association for the Advancement of Colored People, the West Virginia affiliate the American Civil Liberties Union, and the West Virginia Human Rights Commission voiced their concerns.

The second segment was the proclamation ceremony, consisting of addresses by Governor Caperton and by William B. Allen, Chairman of the U.S. Commission on Civil Rights. In his proclamation-address, Governor Caperton reaffirmed the commitment of his State government to civil rights progress in West Virginia. In his commemorative address, Chairman Allen described an America without civil rights problems, thereby reminding the audience of many civil rights frontiers where hard battles loom ahead.

The third segment was the community forum held between 1:30 p.m. and 4:20 p.m. by the Advisory Committee, which consisted of three panels. The first panel "State Civil Rights Laws" was designed to address such issues as the strengths and weaknesses of State civil rights laws, the enforcement of State civil rights laws, and needed civil rights legislation.

The second panel dealt with the issue of the at-large vs. single-member district system of electing State delegates.

The third panel discussed the issue of bigotry and violence in West Virginia, focusing on the passage and enforcement of the Unlawful Paramilitary Act of 1987.

PANEL ON CIVIL RIGHTS LAW AND LEGISLATION

Presentation by Charles Brown

State Attorney General Charles G. Brown, accompanied by Deputy Attorney General Sharon Mullens and Assistant Attorney General Kelly Talbot, started the forum by highlighting major civil rights-related activities of his office.

In 1984¹ the State Supreme Court issued an opinion requiring the State Human Rights Commission (HRC) to clear it's backlog of complaints with the assistance of the Attorney General's office. Working with the commission and the hearing examiners appointed by the State Supreme Court, the Attorney General's office has contributed to practically eliminating the backlog. Following the State Supreme Court instructions, cases are set for hearing within 180 days and adjudicated within a year. Working with the HRC, his office has been successful to a large extent in keeping cases current.

In collaboration with the courts and the HRC, the Attorney General's office put together a handbook, The Law and Sexual Harassment. It covers protection of women and men from harassment in the work place.

¹ Allen v. State Human Rights Commission, 324, S.E. 2nd 99 W.VA.1984.

Mr. Brown identified three issues in need of greater attention in the future. First, handicap rights, is the latest frontier in discrimination. It can potentially affect any one of us at anytime. Mr. Brown stated, "I keep pointing out that anybody can become handicapped any day in a car wreck or by disease.

Handicap rights, rights for racial or ethnic minorities, rights for women and the aged...all these rights affect everyone and the quality of life in the State." He maintained that "if this is not a good State for all of us, it is not a good State for any of us to live in." He was of the opinion that the definition of "handicap" needed to be expanded, and that if the court does not change it, the State legislature may have to act. He informed the audience that a citizen handicap rights task force has been established in his office and is identifying handicap issues and recommendations to deal with the. As a practical matter, he recommended that all State agencies install TDD devices for the deaf.

Second, he reminded the audience that "there is a growing threat of racial problems on college campuses. It has sprung its ugly head recently," and he believes that the problem of racial tension on campuses deserves collective attention of all those concerned with the future of our society.

Third, regarding the activities of the extremist, white supremacy groups in the State, he applauded the passage of the Unlawful Paramilitary Act,² which provides the needed legal basis for monitoring such activities.³ In discussing the passage of this bill, he publicly recognized the contribution of many people present at the forum including SAC member Bernard Gottlieb and panelist Steve Rutledge, who had made contributions to the passage of the bill. He is convinced that the law as it exists is a necessary first step, but it may need strengthening in the future. He is supportive of the idea of amending the law based upon the experience gained from implementing it.

Presentation by Phyllis Carter

The next panelist was Ms. Phyllis H. Carter, executive director of the West Virginia Human Rights Commission, that has as its mandate the protection of civil rights and human rights of citizens of the State.

Ms. Carter thanked the Attorney General and his staff for their continuing support of HRC. She also recognized Sharon Mullens,

² The Unlawful Paramilitary Act of 1987, W.VA. Code 61-6-21.

³ See the third panel of this forum on "Bigotry and Violence in West Virginia," pp. 21 - 28.

Deputy Attorney General for Civil Rights, who prosecutes the HRC cases and represents the HRC before the West Virginia Courts.

In describing what the HRC does, Ms. Carter noted it is empowered to receive and investigate complaints, hold hearings, and enforce the State Human Rights laws. Although there was a backlog of cases with the HRC for some time, the HRC staff is keeping current with cases that are now coming in to the office while working at reducing the backlog.

According to Ms. Carter's description of complaint processing, the first step is for someone to file a complaint alleging discrimination. The commission attempts to investigate the complaint within 180 days. Upon completion of the investigation, there is a determination of probable cause or no probable cause (whether there is enough information to form a reasonable conclusion that a violation of the West Virginia Human Rights Act has or has not occurred.) Upon determination of probable cause, the case goes to a hearing. The hearing is an evidentiary hearing with witnesses sworn in, held before a hearing examiner who is an attorney.

Upon completion of the hearing, the examiner makes findings of fact and conclusions of law, which are shared with both the respondent and the complainant. The hearing examiner then recommends a decision for the commissioners. The commissioners

decide whether or not to accept the hearing examiner's recommendations. If they don't accept it, they can remand it back to the hearing examiner for another hearing or clarification on a particular matter. The final decision entered by the commission can be appealed directly to the West Virginia Supreme Court.

According to Ms. Carter, the HRC has several remedies or relief available to a complaining party. The commission can issue a "Cease and Desist Order," that can contain provisions which will aid in the elimination of future discrimination. For instance, it may require a respondent to develop an affirmative action plan, or it may require a sworn affidavit from the responsible official of the company that the commission's order will be implemented. The commission can also award front pay as well as back pay that includes fringe benefits and bonuses. Front pay takes place when a person has been discriminated in employment, and the complainant is to get the next available job. It allows the complainant to collect money until the next job becomes available and is offered to the complainant. The commission can also require the losing party expunge the employment records of the complaining party.

Prior to December 20, 1988, the commission could award incidental damages to complainants. On that date, however, the West

Virginia Supreme Court issued an opinion in the Bishop Coal case⁴ holding that the commission did not have the authority to issue incidental damages. The State Attorney General's office filed a petition with the State Supreme Court on behalf of the commission and the court notified the commission on February 22, 1989, that it would grant the petition to reconsider the court's decision entered on December 20, 1988.⁵

Presentation by Lloyd Jackson

In opening his presentation, State Senator Lloyd G. Jackson, II, said he would be remiss if he did not acknowledge two members of the Senate Judiciary Committee, present at the forum, who were leading proponents of civil rights in the Senate. He introduced Senator Robert K. Holliday as "the Senator who is probably most concerned about the rights and the dignity of those people who find themselves not being treated fairly because of handicap, race, or gender." According to Senator Jackson, Senator Holliday is an effective advocate of strong civil rights legislation in the State legislature. Senator Jackson also introduced Senator

⁴ Bishop Coal Company v. West Virginia Human Rights Commission and Brenda Salyers, Doc. No. 18138 (W.VA., Dec. 20, 1988), reh. granted and opinion reissued May 16, 1989.

⁵ In the opinion issued on May 16, 1989, the West Virginia Supreme Court recognized and granted the authority to the West Virginia Human Rights Commission to award incidental damages to complainants up to \$2,500. Bishop Coal Company v. West Virginia Human Rights Commission and Brenda Salyers, Doc. No. 18138 W.VA. May 16, 1989.

Truman H. Chafin, who is very much concerned with the protection of citizen rights and puts in a considerable amount of pro bono service as a lawyer. When it comes to championing the rights of "the little people" in the committee, Senator Chafin is said to be "always the person who is on his feet. He does not always win, but he is always on his feet ready to champion those people's rights."

Referring to what was said at the morning ceremony celebrating the proclamation of "Civil Rights Day in West Virginia", Senator Jackson said he was impressed by the evolving, expanding nature of civil rights. "Civil rights legislation has moved light years from what it was just two decades ago," and he felt that the boundary of civil rights should change to accommodate the shifting currents and needs of the time.

Regarding the prospects of new civil rights legislation, Senator Jackson pointed out that Governor Caperton is strongly committed to the advancement of a civil rights agenda. Faced with a severe fiscal problem in the State, the governor had to make some unpopular decisions in the first 60 days of his administration, but his commitment to civil rights remains unchanged. Based on the governor's commitment and the continuing interest of the Judiciary Committee in civil rights issues, Senator Jackson was optimistic about the prospects of civil rights legislation.

He renewed his commitment to improving the coverage of handicap access in legislation dealing with school facilities, parks, and public buildings.

The pay equity issue, in his opinion, should be dealt with now rather than be deferred "until it comes upon us at a time when we really can't afford for it to happen." The State has already funded a study on the pay equity issue, and he believes that it "is high time that the legislature take a serious look at [the issue]." The pay equity issue, he recommended, should be considered in a broader context. To bring the point home, he asked if those people with young daughters are willing to tell their daughters that however hard they may work, they are not going to be rewarded as well as the boys.

He noted that although the recently passed "Unlawful Paramilitary Act" is a step in the right direction, amendments may be necessary to make the law more useful, effective, and enforceable.

The ensuing discussion between the SAC members and panelists brought about the following clarifications:

- 1) In order to be able to implement the U.S. Fair Housing Act as amended in 1988 to include the coverage for handicap and familial status, efforts are under way to incorporate expanded

definitions of handicap and familial status in the West Virginia Human Rights Act.

2) There is no pending bill in the Senate Judiciary Committee designed to protect gay rights. In this connection, one SAC member commented that gay rights is a big problem in West Virginia and a group of citizens within the State are left disenfranchised of their rights.

3) Regarding the backlog at the HRC, it was pointed out that the HRC does not have a backlog of current cases. The backlog at the HRC refers to cases that had been with the commission for a number of years prior to 1985. The HRC staff started tackling the backlog and in the next year and a half all backlog cases will be incorporated into the current case load.

PANEL ON THE AT-LARGE VS. SINGLE MEMBER DISTRICT SYSTEM

Presentation by Floyd R. Fullen

Mr. Floyd R. Fullen, a former member of the West Virginia State House of Delegates and an attorney at law in private practice, provided a historical background of the delegate election system in the State. Although Congressmen to the U.S. House of Representatives have been elected from single-member districts since 1842, delegates to the West Virginia State legislature are elected through a diverse election system, some districts electing single delegates and others as many as 12 delegates. Until the West Virginia Supreme Court decision of 1972⁶, every county in West Virginia had one vote and one delegate regardless of its size. Since then, however, as some counties became larger, they were given additional votes and delegates. In Kanawha County, for example, at present 12 delegates are now elected from one district.

Instead of increasing without limit the number of delegates in proportion to population growth, though, the total number of delegates in the legislature has stabilized at 100 for some time now. Based on a State Supreme Court decision⁷, the State House

⁶Goines v. Rockefeller, 338 F. Supp. 1189 (1972).

⁷Robertson v. Hatcher, 135 S.E. 2nd 675 (1964).

of Delegates now has the responsibility to decide on the number of delegates.

Mr. Fullen described unfair situations that arise from redistricting. When two adjoining counties are combined into one district, a candidate has to campaign in two counties instead of one, boosting campaign expenses. A far more serious situation arises when a section of one county is added to another, forming an enlarged district. Compared to candidates from the older district, the candidate from the new area is at a disadvantage because he or she has to cultivate a new constituency, which constitutes a majority of the votes. Thus, a candidate from the added area would have a slim chance of winning a delegate seat. In 1988 two candidates from Tucker County filed suit⁸ with the State Supreme Court trying to get the Redistricting Act of 1982 declared unconstitutional because Tucker County, which has 8,675 residents, was attached to Preston County which has 30,460 residents. With this imbalance in relative population sizes between the two counties, it was practically impossible for someone from Tucker County to be elected. The Court, however, refused to hear the case.

Mr. Fullen cited U.S. Supreme Court decisions in a recent New Jersey case, Karcher v. Daggett,⁹ and an Indiana case, Davis v.

⁸Richard Schwartz v. Ken Hechler, W.Va. Supreme Court of Appeals Computer No. 881421. Filed Nov. 16, 1988. Refused Nov. 17, 1988.

⁹ 104 S.Ct. 2672(1983) [580 F.Supp.1259]

Bandemer,¹⁰ as generally supporting the single-member district concept.

Since the minority population in West Virginia is only about 4 percent, the normal political forces that have brought about single-member districts in many states have not had an impact in West Virginia. Furthermore, in his opinion the U.S. Supreme Court decisions regarding redistricting and voting rights violation would not apply to West Virginia because of the small percentage of minority population. He thinks that no matter how districts are redrawn, the number of minority or black delegates (now one) is unlikely to change by more than one or two because of the small size of the minority population.

For several years now, various members of the House of Delegates, including Mr. Fullen himself when he was a delegate, have proposed constitutional amendments that would mandate the end of the at-large delegate election system. In March 1989, the House Constitutional Revision Committee voted it down by a 14 to 11 vote. This was the nearest that the amendment came to being reported out of the committee.

Mr. Fullen offered a recommendation for dealing with the unfairness of the current delegate election system. He proposed a legislative compromise of 99 single-member delegate districts

¹⁰ 106 S.CT. 26(1985) [603 F.Supp.1479]

with 33 senators. There would be three delegate districts within each of 33 senate districts, each senator would have three delegates to work with.

Presentation by John Overington

Delegate John Overington, a member of the House Constitutional Revision Committee, offered the following reasons in support of the single-member delegate election system.

His first reason was that the single member district system would allow black voters a greater opportunity to participate in the legislative process. When several districts are lumped together into one multiple member district, the influence of one group becomes diluted in a larger multi-member district, though it may have been prominent in one smaller single-member district. For example, Kanawha County, which elects 12 delegates in an at-large system, has a 5 percent black population. He maintained that if the county is divided into single delegate districts, there will be districts that would have 20 percent or more blacks. One district in Kanawha County, south of the river including Montgomery, Paint Creek, Rend, and Chesapeake, would have 20 percent or more blacks. That would give black voters a greater chance to win a seat in the legislature. Another area would be east of the Elk River, which would be approximately 20-25 percent

blacks. At present, none of the delegates from Kanawha County is black. There is only one black delegate, and he is reportedly considering retirement soon. Blacks are under-represented in the State legislature and something has to be done, he pointed out.

His second reason was the lower election cost associated with the single member district system. Campaign cost is bound to be lower when one runs in a single member district than in an at-large district, because of the smaller geographic size. He

stated that the single member district system is more likely to enable low income people to run for State offices.

The third reason, cited by Delegate Overington, was that since the single member district means a smaller geographic area and a smaller constituency, a delegate can devote more time and attention to the district, enabling the delegate to develop a more personal, responsive relationship with his or her constituents. Since accountability resides clearly with one delegate as opposed to being spread among delegates as in the at-large, multiple member district, Mr. Overington felt that the single-member district creates an atmosphere where delegates are more attuned to constituency needs and for that reason the public will be better served.

Mr. Overington was asked if promoting single-delegate districts might not encourage the existing pattern of housing segregation and discrimination. That is to say, by carving out black communities as distinct delegate districts, one might be unwittingly encouraging blacks to stay where they are and perpetuate discriminatory segregation relating to housing, education, and employment. In response, he said, he would rather take a positive outlook on the issue: blacks can elect black representatives to the State legislature who could then make sure that there are no discriminatory policies or practices and tackle the "root cause" of black community problems.

During the discussion, Mr. Overington made the following comments:

- 1) In general in West Virginia there is less of a legal basis to challenge an at-large election system than in Virginia and other states with larger black populations. Some districts, however, have been threatened with law suits and the threat itself has led to single-member districts or the breaking up of some of the larger ones.

- 2) A Congressman to the U.S. House of Representatives from the eastern panhandle of the State requested that the State legislature create single delegate districts in his Congressional district, and his request was accommodated by the State legislature.

- 3) Much needed demographic analysis of delegate districts by race is not available. Demographic data by counties are

available in some cases, but counties and delegate districts often do not match up. Considering the importance of such data, a statewide demographic analysis by delegate district should be encouraged.

Presentation by Myron Fields

Mr. William Wooten, vice chairman of the House Constitutional Revision Committee who was scheduled to speak in support of the multi-member district system, was unable to attend the forum because of a committee meeting in progress and was represented by Myron Fields.

According to Mr. Fields, when the issue of the single-delegate vs. multiple-delegates district election system came up for vote at a recent meeting of the House Constitutional Revision Committee, it was presented not as a civil rights issue, but as a human rights issue where the principle of one man one vote figured prominently. The majority of the Constitutional Revision Committee felt that electing delegates on a single-member district basis would lead to counter-productive parochialism. Delegates from rural districts outside of towns would be concerned more with issues facing rural areas. They may possibly work against the delegates from towns whose interest may be at odds with those of the rural delegates. Residents in rural areas will have fewer representatives compared to residents in urban

areas, resulting in a weaker representation of those who do not live in town.

In addition, Mr. Fields felt that delegates from multiple-member districts have a better basis for working together as a team wielding greater political leverage. As an example of teamwork, he noted that several delegates from one district in Raleigh County and Summers County work together as a team on such larger issues like the Thurupike Commission. As a team they can exert greater political leverage than individual delegates. Working as a team they can be more effective, which is to the benefit of the entire district.

During discussion following scheduled presentations, Mr. Fullen was asked about the level of interest among the members of the legislature regarding the single member vs. at-large district system. Mr. Fullen's assessment was that there is not very much interest, not as much as there ought to be. He remarked that since the present system favors the status quo, there is not much political incentive among the incumbents to change the current election system. It was for this reason that he tried to get a constitutional amendment passed for the past several years so that the people voting on the amendment would be separated from the outcome of possible redistricting in 1992. In this connection State Senators Robert K. Holliday and Thaif Blatnik, who were present at the forum, also offered their observation

that "there is very little interest in changing the present system." Mr. Bernard Hawkins, a representative of the West Virginia NAACP commented that he did not think redistricting or changing the multiple-member district system to the single-member district system is likely to increase the chance of blacks being elected largely because of the small percentage of blacks in West Virginia. His comments seemed to imply that the move to change to the single-member district was motivated more by personal interests than by a desire to provide a greater opportunity for blacks to participate in the State legislature.

Toward the end of this panel, there was a growing consensus among the panelists and SAC members that the issue has not received the kind of careful attention it deserves and needs to be discussed, taking into consideration such factors as demographic profile by delegate districts, campaign cost and quality of representation as a function district size, and the chance of electing minority delegates.

PANEL ON BIGOTRY AND VIOLENCE IN WEST VIRGINIA

Panelists started the session with a video presentation of a special feature program produced in 1987 by an ABC affiliate TV station based in Washington, D.C., WJLA (Channel 7).

The program is an extensive coverage of the activities of Neo-Nazi extremist groups which includes a fairly detailed account of the Cosmotheist Church and its 350 acre compound situated in a secluded rural area in Pocahontas County, West Virginia. The leader of this paramilitary group, operating as a religious group, is Dr. William Pierce. As enunciated in his books such as The Turner Diary and The Brotherhood of Murder, he believes that although in the mid 1990's there will be a nuclear war wiping out three fourths of the population, his people trained as survivalists will be able to live underground in their limestone cave network and he will emerge as the territorial governor of the neighboring eight states. Through the Cosmotheist Church and its compound, he is carrying out the masterplan for everything he has written about for the past 25 years. His people are engaged in paramilitary, survivalist training in the compound.

The video tape contained an interview with one local store owner who seemed unconcerned about either the presence of the Cosmotheist Church and its members or what they stand for. This

white male store owner said that he was not concerned because the church members did not bother him.

Presentation by Steve Rutledge

Mr. Rutledge, who was representing the Citizens for Passage of the Unlawful Paramilitary Act, explained that for several years in the mid 1980's many citizens and civil rights groups became concerned about Pierce's group moving into West Virginia and allegedly conducting paramilitary training. About the same time, there were frequent reports of incidents of bigotry throughout the State. The concern of these citizens and civil rights organizations increased, resulting in the formation of a citizen coalition to lobby for legislation to outlaw racist paramilitary activities in the State. According to Mr. Rutledge, the coalition was able to marshall a "tremendous" amount of citizen pressure on the legislature and its efforts significantly contributed to the passage of the Unlawful Paramilitary Act of 1987, which was signed into law on March 25, 1987. This bill

prohibits the threat of force to interfere with citizens and the civil rights of West Virginians. It also prohibits any conspiracy to suppress or to teach others any techniques to cause property damage, bodily harm or death. In addition, it permits law enforcement officials to take action before some type of violence is committed. Based on this law, it is now possible to

maintain surveillance and aerial reconnaissance over the Cosmotheist Church compound.

In Mr. Rutledge's opinion, the publicity and public awareness generated by rallying against paramilitary, racist activities led to the decision by the Washington, D.C.-based TV station, WJLA, to do a special program on the problems of racist, Neo-Nazi, extremist organizations. He noted that partly as a result of the increasing public concern, the tax status of the Cosmotheist Church was reassessed, which resulted in the withdrawal of tax exemption status under the West Virginia State Law except for a few buildings allegedly used for religious service and Mr. Pierce's residence. Previously, the entire compound was tax exempt.

Presentation by Bernard Gottlieb

The next speaker was Mr. Bernard Gottlieb. Based on his experience as one of the key figures who lobbied for the Act, he reiterated the need to alert the public and raise public awareness concerning not only the Cosmotheist Church and Pierce's group in Pocahontas County, but also other anti-semitic, racist incidents that seem to be taking place with an increasing frequency in recent years. He pointed out that the issue of vandalism in schools, churches, synagogues, and cemeteries as well as the destruction of property deserves serious public

attention. In his opinion, such incidents of vandalism and destruction are frequently motivated by religious, ethnic, and racial bigotry. When youngsters responsible for such acts are caught by the law enforcement officers, the usual penalty is reprimand. At worst they get fined for a misdemeanor because of their age. Mr. Gottlieb believes that there is a need to put "enough teeth in the law to discourage such acts." He reported that his group is working on a legislative proposal for amendments to the Unlawful Paramilitary Act or a new law to curb and discourage acts of religious and racial bigotry.

Presentation by Jerry Dale

Sheriff Jerry Dale underscored the usefulness of the Unlawful Paramilitary Act, since it gives the law enforcement agencies authority to maintain necessary surveillance and take preventive measures. He pointed out that had it not been for the bill, there would not have been any TV special or any surveillance of the Pierce's Neo-Nazi compound in the Pocahontas County. He informed the audience that the citizen coalition and some of the law enforcement officers are planning to meet with Governor Caperton and his State Police Superintendent to request that a curriculum at the State Police Academy include the coverage of the Unlawful Paramilitary Act of 1987 and paramilitary activities in the State, including Pierce's group.

Sheriff Dale described the Cosmotheist compound by pointing out that the number of people on the compound varies but on a regular basis there are about 12 to 14 people on the premise. Mr. Pierce lives there about 90 percent of the time. But on one Labor Day there were as many as 200 people on the compound. Over the last year and a half, Mr. Pierce has recruited women to live on the compound. Mr. Pierce applied for and received an alternative teaching permit where he could teach his young people at the compound instead of having to send them to the public school system.

A discussion followed the panel presentation, and brought about the following comments and clarifications:

1) In West Virginia, there is no mandatory reporting by law enforcement agencies of racially- or religiously-motivated incidents of bigotry and violence. The Unlawful Paramilitary Act does not contain such a mandatory reporting requirement. In lobbying for the bill, its proponents were aware that the bill was not a perfect one but it was deemed "far better than nothing." There was a consensus that a provision requiring mandatory reporting would be a much needed step in tackling the problem of bigotry and violence in West Virginia. Because there is no institutionalized reporting system in existence, and law enforcement officials are not familiar with the nature and type of incidents motivated by race, religion, or national origin,

there exists a real danger of under-reporting. For example, when swastikas are painted on a highway abutment, the State Department of Highways would clean it up or paint over it, but the incident is never reported anywhere. Under-reporting in turn contributes to public apathy, a sense of false security, or a lack of interest in the issues of bigotry and violence.

2) Local white residents in Pocahontas County have the "attitude that as long as you don't tread on me, I am going to leave you alone." The average person on the street does not understand much about William Pierce, the Aryan Nations, and the racial supremacist groups. The general public is unconcerned about the issue at this point, and there is a great need for public education and consciousness raising.

3) As for the reasons why Pierce picked Pocahontas County in West Virginia, Sheriff Dale speculated: a) since Mr. Pierce's base station is in Arlington, VA, he needed a place where he could be fairly close and could travel back and forth; b) he needed a place that was remote, and he probably wanted to move into an area that had a small black minority population; c) the property he purchased had to have limestone caves underneath; and d) at the time he purchased the property (\$95,000 cash for 350 acres), the State of West Virginia did not have any law or prohibiting paramilitary training.

4) One person in the audience reported sighting a fairly noticeable swastika with "skins" written around it at one of the main streets in Charleston. According to one panelist, although not in any organized fashion yet, small groupings of students have appeared in high schools with shaved heads. He warned that a surge of such groups in high schools is bound to increase the racial conflict on high school campuses. In this connection, it was pointed out that due to insufficient funding, the West Virginia Human Rights Commission has not been able to go out to schools to tackle this problem of graffiti with racial/religious overtones or other acts motivated by bigotry. The need for public education was readily recognized and reiterated.. Several persons expressed hope that radio stations and the news media would pick up the topic to generate public interest and raise public awareness.

5) Mr. Pierce's establishment in Pocahontas County is not an isolated development. Similar developments have been reported in Wyoming and Idaho. Although such establishments seem to be spreading across the country and increasing in number, no one can be sure because there is no reporting or monitoring system at the national level. Recognizing the mandatory reporting system in place in Maryland and Pennsylvania, several persons noted the need for such a reporting system both at the State and the Federal levels.